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## **COMMENTS ON JEFFERSON COUNTY AIR POLLUTION CONTROL DISTRICT'S PROPOSED REGULATIONS 1.02, 1.07 & 1.20 REGARDING STARTUPS, SHUTDOWNS AND MALFUNCTIONS**

**Submitted by Kelly Haragan, Environmental Integrity Project  
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The District's revised rules represent a significant improvement over existing rules. In particular, the elimination of the emergency defense and the illegal malfunction exemption will make it easier for the district to bring enforcement action against facilities that are exceeding their emission limits. The revised provisions will only improve air quality, however, if the district commits staff and resources to actively pursuing enforcement against those facilities that are exceeding their emission limits. In addition, while we have not examined them in detail, the new requirements tightening leak detection and repair standards should help to reduce this major source of emissions.

While the Environmental Integrity Project believes the rules regarding startup, shutdown and malfunction are a strong step in the right direction, we offer the following suggestions for adding clarity to the rules, for increasing public access to information regarding excess emissions in local communities, and for creating incentives for facilities to avoid excess emissions due to startup, shutdown and malfunction.

### **SPECIFIC SUGGESTIONS FOR IMPROVEMENT**

#### **Reg. 1.02 Definitions:**

- There does not appear to be a definition of "actual emissions" in the rules. If this is the case, one should be added to clarify that actual emissions include startup, shutdown and malfunction emissions.

#### **Section 1.06 Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting**

- Section 3
  - It does not appear clear from the rules that emissions reports have to include actual emissions, including startup, shutdown and malfunctions.
  - If sources are allowed to rely on factors such as AP-42 to estimate emissions, they should be required to conduct periodic monitoring to demonstrate that the factors relied upon produce accurate estimates of emissions for their individual facilities.

- Section 4
  - “Actual emissions” should clearly include startup, shutdown and malfunction emissions.
  - If sources are allowed to estimate their toxic emissions based on factors such as AP 42, they should be required to conduct periodic monitoring to demonstrate that the factors relied upon produce accurate estimates of emissions for their individual facilities.

### **Reg. 1.07 Excess Emissions During Startups, shutdowns, and Malfunctions**

- Section 1.02
  - Current wording could be read to indicate that emissions must exceed the routine levels of startup, shutdown or malfunction emissions; rather than the routine level of emissions.
  - “Appreciable increase” should be defined.
- Section 2.3 – The District should consider automatic penalties for startups, shutdowns and malfunctions that exceed a certain frequency or magnitude. Automatic penalties would serve as a deterrent and would allow the district to use the funds for an electronic reporting system and/or for health studies or clinics for the local community.
- Reporting – the District should establish an electronic reporting system whereby companies are required to report their excess emissions online and the information is made accessible on the agency’s website. The system used by Texas provides a good example. <http://www.tnrcc.state.tx.us/enforcement/fod/eer/>
- Section 3.1 – The District should include a provision allowing the District to require facilities to postpone planned startup or shutdown in cases where the startup or shutdown would make ambient air quality environmentally unacceptable (for example, if too many sources were planning to perform startups or shutdowns on the same day).
- Sections 3.5.5, 3.8.5 – The rules should require reports to include a description of how the emissions quantity was calculated, identification of the facility’s legal limit, and where that limit can be found. In addition, the rules should clarify that an emissions total, in pounds, must be included.
- Section 4.2.5 – The rules should require facilities to estimate the composition and quantity of emissions (with the current permissive language, facilities are likely to just leave this out).
- Section 4.7.5 – The rules should require reports to include a description of how the emissions quantity was calculated, identification of the facility’s legal limit, and where that limit can be found. In addition, the rules should clarify that an emissions total, in pounds, must be included.
- Section 5.1 – The rules should clarify that this provision does not authorize a source to continue to operate in violation of its emission limits.

### **Reg 1.20 Malfunction Prevention Programs**

- Section 3.1 – It is not clear from this rule whether the program has to be reviewed at least every 5 years or if the District can determine that a less frequent review is sufficient.
- Section 3.1.8 – It is not clear from the rule whether the source is required to install the additional air control equipment or instrumentation identified as appropriate to minimize the occurrence of a malfunction.
- Section 3.3 – It is not clear from the rules into which type of air permit the program gets incorporated. It is also not clear what the public participation process is for this permit revision.